IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 232 of 2000
with
CIVIL APPLICATION No 4598 of 2000
in
SPECIAL CIVIL APPLICATION No 7047 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA
and
Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

CANARA BANK

Versus

JATASHANKER A PANDEY

Appearance:

1. LETTERS PATENT APPEAL No. 232 of 2000
MR KEYUR GANDHI for NANAVATI ASSOCIATES
for Appellant No.
MR JAL SOLI UNWALA for Respondent No. 1

CORAM : MR.JUSTICE B.J.SHETHNA

and

MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 13/08/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE B.J.SHETHNA)

#. The appellant-Canara Bank has challenged in this appeal the judgment and order dated 11.2.2000 passed by the learned Single Judge of this court (Coram : C.K.Thakkar, J.)(as he then was) in Special Civil Application No.7047 of 1988 filed by the respondent, who was the Chowkidar of appellant-bank.

#. The appellant-bank terminated service of respondent original-petitioner, who was working as Chowkidar by an order dated 1.9.1998 (Annexure-A to the main petition) on the ground that he was convicted by the Sessions Court on 30.9.1985 for the offence under Section 304 part-I IPC and sentenced to suffer R.I. for 5 years and to pay fine of Rs.1,000/= in default to further undergo SI for one year. The impugned order of dismissal from service (Annexure-A) was challenged by the respondent-petitioner by way of writ petition i.e. Special Civil Application No.7047 of 1988 before this court.

#. When the main writ petition i.e. Special Civil Application No.7047 of 1988 was placed before the learned Single Judge of this court (Coram : A.P.Ravani, J.)(as he then was) on 19.10.1988 His Lordship straightaway admitted the same by issuing "Rule" on it and also granted interim relief in terms of para 17(B) of the petition by a detailed reasoned order thereby the respondent-original petitioner continued to remain under suspension.

#. Ultimately, the writ petition was allowed by His Lordship Hon'ble Mr. Justice C.K.Thakkar (as he then was) by his judgment and order dated 11.2.2000 as according to His Lordship the impugned order of dismissal from service (Annexure-A) was passed by the bank without affording an opportunity of hearing to the respondent-original petitioner. However, while allowing the writ petition and quashing and setting the impugned order of dismissal from service, the learned Single Judge permitted the appellant-bank to take appropriate action against the respondent-original petitioner in accordance with law after observing principles of natural justice.

#. In pursuance of the order passed by the learned

Single Judge of this court, the appellant-bank reinstated the respondent in service but kept him under suspension.

#. It was vehemently submitted by learned counsel for the appellant-bank that as per the banking regulations, no one can be retained in service, if he is convicted by competent criminal court for the offences involved for moral turpitude. We would not like to express any opinion on the merits of the case. Whether the offence under Section 304 part I committed by the respondent constitute moral turpitude or not? This question has to be decided by the bank after extending an opportunity of hearing to the respondent.

#. In such type of cases where the learned Single Judge has exercised his extraordinary jurisdiction in favour of the respondent-original petitioner and set aside the impugned order of dismissal from service, then certainly this court would not interfere in Letters Patent Appeal.

#. In view of the above discussion, we do not find any substance or merits in this appeal. Accordingly, it fails and the same is dismissed. No order as to costs.

#. Civil Application for stay is dismissed as the main Letters patent Appeal is dismissed.

(B.J.Shethna, J.)

(Ravi R. Tripathi, J.)

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